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September 6, 2016

**VIA ECF**

Honorable Stuart M. Bernstein  
United States Bankruptcy Judge  
United States Bankruptcy Court  
Southern District of New York  
One Bowling Green  
New York, New York 10004-1408

*Re: Picard v. Stuart Leventhal, Adv. Pro. No. 10-04492 (SMB) (Bankr. S.D.N.Y.)*

Dear Judge Bernstein,

We represent Irving H. Picard, the trustee (the “Trustee”) for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”), and the estate of Bernard L. Madoff, under the Securities Investor Protection Act, 15 U.S.C. § 78aaa *et seq.*, the plaintiff in the above-referenced adversary proceeding. We write pursuant to the Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order (the “Avoidance Procedures Order”) and this Court’s General Order M-390 to request the Court’s assistance in the selection of a mediator.

By way of background, the Trustee filed a complaint against Stuart Leventhal on November 30, 2010. The Trustee seeks to avoid and recover transfers of customer property BLMIS made to Stuart Leventhal during the two-years preceding the bankruptcy filing. The defendant filed an answer to the Trustee’s complaint on May 2, 2011. Discovery between the parties ended on July 6, 2016. Pursuant to the Avoidance Procedures Order, this adversary proceeding was referred to mediation on August 22, 2016.

Unfortunately, counsel for the Trustee and counsel for the defendant have been unable to agree on the selection of a mediator. Thus, pursuant to section 5(c) of the Avoidance Procedures Order and section 2.2(A) of General Order M-390, we respectfully request that Your Honor appoint a mediator for the parties.

Please feel free to contact us with any questions in connection with the foregoing.

Atlanta Chicago Cincinnati Cleveland Columbus Costa Mesa Denver  
Houston Los Angeles New York Orlando Philadelphia Seattle Washington, DC

Honorable Stuart M. Bernstein  
September 6, 2016

Sincerely,

*/s/ Dominic A. Gentile*

Dominic A. Gentile

cc: Keith R. Murphy, Esq.  
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Ilyssa Gabor-Florio, Esq.  
Daniel Marotta, Esq.